



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Robert H. Scheer) Examiner: Jarrett, Scott L.
Serial No.: 09/867,068)
Filed: May 29, 2001) Art Unit: 3623
Title: System And Method For) Attny Doc.: 31083.05US5
Providing Integrated Supply)
Chain Management)

APPEAL BRIEF

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Dear Sir:

Appellants hereby appeal to the Board of Patent Appeals and Interferences from the Examiner's final rejection of claims 1-15 which rejection was set forth in the Office Action mailed September 21, 2005. A timely Notice of Appeal was filed.

This brief is accompanied by the fee required by 37 CFR § 41.20

This Appeal Brief is being filed in triplicate.

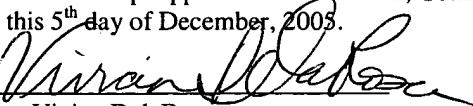
The Commissioner is hereby authorized to charge any fee deficiency or credit overpayment to deposit account number 50-2428 in the name of Greenberg Traurig.

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By: 
Vivian DelaRosa

I. Real Party In Interest

The real party in interest is W.W. Grainger, Inc.

II. Related Appeals And Interferences

It is not believed that any appeals or interferences are pending which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

It is noted, however, that an appeal is pending in related application serial no. 09/867,174.

III. Status Of The Claims

In the application, claims 1-15 remain pending and, having been finally rejected, are the subject of this appeal. Claims 16-22 were canceled during the course of prosecution.

The Section IX appendix provides a clean, double spaced copy of pending claims 1-15.

IV. Status Of Amendments

The claims are in condition for appeal – no amendments to the claims are pending.

V. Summary Of The Claimed Subject Matter

The claimed subject matter is generally directed to a supply chain transaction network which functions to determine if parts are needed for a maintenance activity and which functions to move needed parts within a supply chain to ensure that the parts will then be available for use when the maintenance activity is performed. To this end, with general reference to Fig. 1 and paragraphs 0030-0032 of the published application (US 2002/0143598), a work order 201 is stored in a computerized maintenance management system ("CMMS"). The work order stored in the CMMS is generally created from automated monitoring of the customer equipment,

preventive maintenance planning, periodic and routine maintenance schedules, planned maintenance projects or unplanned equipment failures and includes information such as possible repair parts, consumables, supplies, and tools and equipment needed for a repair task. An intelligent agent system works in connection with the CMMS system and monitors for any entered or modified work orders. The intelligent agent system functions to extract data from a work order to create an advance demand notice for items that may be required for a particular maintenance task 202. The system also includes a distributor system which receives the advance demand notice from the intelligent agent system and which functions to initiate a staging of the items specified within the advance demand notice within a supply chain to meet an expected use of the items during the maintenance procedure. For example, the distributor system may take into consideration the probability that the item(s) listed in the work order will be needed in the maintenance task 203 and/or if the customer already has the item(s) in house or if the item(s) will be needed from the distributor or a supplier. Thus, among other things, the claimed system has the advantage of automatically and immediately responding to a change, rescheduling, modification, or cancellation of a maintenance work order since the intelligent agent system that monitors the maintenance system will detect any such alterations and allow for a change in the advance demand notice and, accordingly, changes in actions initiated by the distributor system, if necessary.

VI. Grounds Of Rejection To Be Reviewed On Appeal

1. Whether the rejection under 35 U.S.C. § 103 of claims 1-15 can be maintained when the art relied upon in the rejection of independent claim 1, whether considered alone or in combination, fails to disclose, teach, or suggest all of the claim elements.

2. Whether the rejection under 35 U.S.C. § 103 of claims 1-15 can be maintained when the rejection of claim 1 fails to provide a convincing line of reasoning as to why an artisan would have arrived at the invention claimed in light of the teachings of the references cited.

VII. Argument

A) Status of the claims

In the application claims 1-15 remain pending. No claims presently stand allowed.

B) Summary of the rejection of the claims

Independent claim 1 stands rejected under 35 U.S.C. § 103 as being rendered obvious by Roddy (US 2003/0055666).

In rejecting claim 1, it was asserted that Roddy discloses a customer maintenance management system into which information pertaining to a work order is entered including information that identifies a piece of equipment to be repaired and one or more items expected to be used during a repair procedure, a customer system which extracts from the maintenance system information that identifies what repairs/maintenance are to be performed wherein the maintenance specifies the parts, equipment, and other resources necessary to perform the maintenance activity to create an advance demand notice order, and a distributor system in communication with the plurality of systems that responds to the advance demand notice order to initiate a staging of items expected to be used as part of the repair procedure. It was acknowledged that, within Roddy, service personnel are notified of a required repair procedure, for example via an email message, to which the service personnel may respond by retrieving information about the repair procedure to thereby allow the service personnel to gather the

required parts. (Office Action of Sept. 21, 2005, page 12). While it was further acknowledged that Roddy fails to expressly teach the use of agent technologies, it was asserted that the use of intelligent agents in e-Business is old and well known. It was therefore concluded that it would have been obvious to one skilled in the art to modify the method and system of Roddy to utilize intelligent agents to manage the system and method in a substantially automated manner.

Dependent claims 2-15 stand rejected under 35 U.S.C. § 103 as being rendered obvious by Roddy alone or as further modified by Yang (2001/0034683).

C) Applicable Law

It is well settled that a determination of obviousness requires that a combination of prior art references include each and every element set forth in the claims, considering each and every word. This requirement that the claimed invention be considered “as a whole” is meant to prevent evaluation of an invention part by part, i.e., breaking an invention into its component parts and then merely finding a reference containing one part, another reference containing another part, etc., and to prevent the impermissible use of the specification of the applicant as a template to combine these parts for the purpose of deprecating the invention claimed. Thus, to assure that such “hindsight reasoning” is not used when assessing the patentability of a claimed invention, a rejection based upon a combination of references requires a demonstration that an artisan of ordinary skill in the art at the time of the invention, confronted with the same problems and with no knowledge of the claimed invention, would have selected the various parts from the references and combined them in the claimed manner. *In re Fritch*, 972 F.2d 1260,

1266 (Fed. Cir. 1992). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488 (Fed. Cir. 1991).

D) Remarks Addressing The Rejection Of Claims 1-15

As discussed, independent claim 1 stands rejected under 35 U.S.C. § 103 as being rendered obvious by Roddy without further consideration of Yang.

- i) The rejection of independent claim 1 must be withdrawn for the reason that the cited art, i.e., Roddy, fails to disclose, teach, or suggest all of the elements set forth in the claims when the claims are considered "as a whole."

Turning to Roddy, Roddy discloses a system in which a monitoring system on board a vehicle monitors the operating parameters of the vehicle and which calls a data center (18) to thereby upload the operating parameters to the data center. The data is uploaded to the data center (18) by means of a communication device (122) such as a cell phone. The data center (18) then examines the operating parameters received from the onboard monitoring system to determine if there exists a critical fault or anomaly in the vehicle. If a critical fault or anomaly is detected, the data center (18) develops a service recommendation and the service recommendation is then uploaded to an Internet web page by the data center. A user, e.g., service technician, may then be notified that the data center has uploaded a service recommendation to the Internet web page by means of an email message, telephone call, fax, or other form of communication. A user may then access the Internet web page, review the service recommendation, and begin preparations for a repair activity prior to the vehicle arriving at a repair facility. That this is the limited disclosure of Roddy has been acknowledged in the rejection of the claims.

While Roddy discloses a system which functions to create a work order by monitoring vehicle operating parameters, it is respectfully submitted that Roddy simply fails to disclose, teach, or suggest a system in which a customer agent server in communication with a customer maintenance system, e.g., the data center (18) of Roddy, extracts from a work order in the customer maintenance system information which identifies at least items expected to be used during a repair procedure to create an advance demand notice order for those items or a distributor system, which responds to the receipt of the advance demand notice, to initiate a staging of the items [specified in the work order] within the supply chain as is set forth in claim 1. More particularly, it will be appreciated that the claimed system would function to *augment* the system disclosed within Roddy in a manner that is not contemplated by Roddy. In this regard, it will be appreciated that the claimed system would sit on top of the system disclosed within Roddy whereby the claimed system would function to extract from the work order created by the data center (18) of Roddy information that would then be used to create an advance demand notice with the advance demand notice being provided to a distribution center system to thereby allow the distribution center system to initiate a staging of the items [specified in the work order] within the supply chain.

From the foregoing, it is evident that the system disclosed within Roddy is not the same as or even similar to the system that is set forth in the claims. More particularly, Roddy only discloses that which the subject application for patent acknowledges to be well known, i.e., that a work order may be created from automated monitoring of customer equipment. (See Paras. 0030-0032 of US 2002/0143598). What Roddy fails to disclose, teach, suggest, or even appreciate, however, is the desirability of extracting information from a work order entered into a customer maintenance system to thereby create an advance demand notice for the items as is

set forth in independent claim 1. Instead of disclosing any element that can be said to perform the claimed operations of the claimed customer agent server, the onboard monitoring system of Roddy does nothing more than monitor vehicle operating parameters for uploading to the data center while the data center of Roddy does nothing more than receive the operating parameters uploaded to the data center by the onboard monitoring system to thereby create a work order that is, in turn, uploaded to an Internet web site for consideration by service personnel. Accordingly, it is evident that neither the onboard monitoring system of Roddy nor the data center of Roddy can be said to initiate the withdrawal, pulling, or taking out of information *from a work order stored on* a customer maintenance system, as appears to be alleged in the rejection of the claims and it is further evident that, by disclosing a system in which the data center generates a work order which is then uploaded to an Internet Web site, Roddy teaches directly against the system that is expressly set forth in the claims. Accordingly, for the reason that Roddy cannot be said to disclose any system that includes all of the elements associated with the claimed “customer agent server” the rejection under 35 U.S.C. § 103 of the independent claim 1, as well as claims 2-15 which depend from claim 1, must be withdrawn.

It is further noted that Roddy additionally fails to disclose, teach, or suggest any system that operates to respond to the receipt of an advance demand notice (or even the work order generated by the data center for that matter) to initiate a staging of items within a supply chain to meet an expected use of the items during a repair procedure. Rather, than disclose, teach, or suggest the claimed distributor system which operates to cause a staging of items within a supply chain in response to receipt of an advance demand notice, in the system of Roddy a service technician is responsible for: a) manually retrieving the work order created and uploaded by the data center to an Internet web page; b) manually reviewing the work order created and uploaded

by the data center to the Internet Web page and; c) manually initiating the movement of items to a service location for use in the repair procedure, i.e., team members gather or reserve the parts. (See para. 0087 of Roddy). Accordingly, for the further reason that Roddy cannot be said to disclose any system that includes all of the elements associated with the claimed “distribution center” the rejection under 35 U.S.C. § 103 of the independent claim 1, as well as claims 2-15 which depend from claim 1, must be withdrawn.

ii) The rejection of independent claim 1 must be withdrawn for the reason that a convincing line of reasoning has not been presented as to how or why an artisan would have modified Roddy to arrived at the invention claimed.

As concerns the “official notice” that the use of intelligent agents is well established and well known, it is submitted that the mere fact that intelligent agents have existed in the past does not teach or suggest reconstructing Roddy to include those claim elements that are clearly missing from Roddy in the first instance. A rejection under 35 U.S.C. § 103 requires that all of the elements claimed be disclosed in one or more references and that the combination of these elements be suggested by the prior art. Thus, even assuming that the expert system of Roddy could be built using a plurality of technologies including but not limited to intelligent agents as asserted in the rejection of the claims, it is respectfully questioned how the desire to build the system of Roddy so as to benefit from the use intelligent agents would further teach or suggest reconstructing Roddy to further include those claimed elements which Roddy fails to contemplate in the first instance. More particularly, it is respectfully questioned how the mere existence of intelligent agents which are experts at their tasks, which optimize their goals, and which coordinate their decisions with other modules, can be said to suggest modifying Roddy to include within the system of Roddy either a customer agent server which operates to extract information from a work order entered into a customer maintenance system and use the

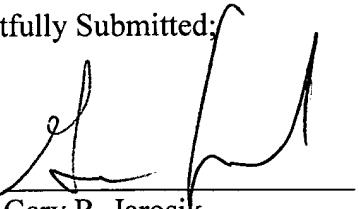
information extracted from the work order in the customer maintenance system to create an advance demand notice for the items specified in the work order or a distributor system which responds to the receipt of the advance demand notice to initiate a staging of items within a supply chain. Since the mere knowledge that intelligent agents exist simply cannot be said to demonstrate that one of skill in the art would have reconstructed Roddy to include all of those claimed elements that are missing from Roddy in the first instance, it is respectfully submitted that the espoused reconstruction of Roddy based upon the mere knowledge that intelligent agents exist and are beneficial is not only unduly speculative but further evidences that the motivation to reconstruct Roddy in the manner espoused in the rejection of the claims could only have been arrived at through the impermissible using of the subject application as the reconstruction guide. Therefore, for the yet further reason that the mere knowledge that intelligent agents exist and are beneficial cannot be said to demonstrate that one of ordinary skill in the art, with no knowledge of the claimed invention, would have reconstructed Roddy to include all of the elements of the claimed “customer agent server” and/or all of the elements of the claimed “distributor system,” it is submitted that the rejection of the claims fails to support a *prima facie* case of obviousness and the rejection under 35 U.S.C. § 103 of the independent claim 1, as well as claims 2-15 which depend from claim 1, must be withdrawn.

E) Conclusion

It is respectfully submitted that the application is in good and proper form for allowance.

Such action of the part of the Board is respectfully requested.

Date: December 5, 2005

Respectfully Submitted,
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VIII. Claims Appendix

The following is a clean copy of the claims involved in the appeal:

1. A supply chain transaction network, comprising:

a customer maintenance system into which information pertaining to a work order is entered including information that identifies a piece of equipment to be repaired and one or more items expected to be used during a repair procedure;

a customer agent server in communication with the customer maintenance system which extracts from the work order in the customer maintenance system the information that identifies at least the items expected to be used during the repair procedure pertaining to the scheduled maintenance activities from the customer maintenance system to create an advance demand notice order for that identifies the items; and

distributor system in communication with the customer agent server which responds to a receipt of the advance demand notice order that was created using the information extracted from the work order to initiate a staging of the items within a the supply chain to meet an expected use of the items during the repair procedure.

2. The supply chain transaction network as recited in claim 1, further comprising a supplier system that cooperates with the distributor system by supplying into the supply chain the items expected to be used during the repair procedure or replenishing within the supply chain the items staged in response to the receipt of the advance demand notice.

3. The supply chain transaction network as recited in claim 1, wherein the customer

maintenance system comprises a computerized maintenance management system.

4. The supply chain transaction network as recited in claim 1, wherein the customer maintenance system comprises an enterprise asset management system.
5. The supply chain transaction network as recited in claim 1, wherein the customer agent server comprises an intelligent agent that extracts the information from the customer maintenance system in response to a user entering or modifying a work order.
6. The supply chain transaction network as recited in claim 1, wherein the distributor system comprises an advance demand intelligent agent that accepts the advance demand notice order from the customer agent server and that uses the advance demand notice order to determine a fulfillment plan for the items.
7. The supply chain transaction network as recited in claim 1, wherein the distributor system comprises an intelligent agent that determines the probability that each item specified in the advance demand notice will be needed during the repair procedure for use in staging the items within the supply chain.
8. The supply chain transaction network as recited in claim 1, wherein the distributor system comprises an intelligent agent that determines sourcing alternatives for each item for use in staging the items or item alternatives within the supply chain.

9. The supply chain transaction network as recited in claim 1, further comprising a transportation agent system in communication with the distributor system that coordinates with the distributor system to assist in moving the items within the supply chain.

10. The supply chain transaction network as recited in claim 9, wherein the distributor system comprises an intelligent agent in communication with the transportation agent system that monitors movement of the items within the supply chain.

11. The supply chain transaction network as recited in claim 2, wherein the distributor system comprises an intelligent agent in communication with the supplier system that monitors movement of the items within the supply chain.

12. The supply chain transaction network as recited in claim 10, wherein the intelligent agent forms a corrective fulfillment plan if the intelligent agent determines that the items are not being moved within the supply chain to meet the expected use of the items during the repair procedure as desired.

13. The supply chain transaction network as recited in claim 1, wherein the distributor system comprises an equipment knowledge base for use in determining the probability of need for each item for use in staging the items within the supply chain.

14. The supply chain transaction network as recited in claim 13, wherein the customer agent server extracts information from the customer maintenance system for populating the equipment

knowledge base, the information being used in determining the probability of need of items specified in future work orders.

15. The supply chain transaction network as recited in claim 1, further comprising a collaborative network and wherein the distributor system comprises an intelligent agent for monitoring the collaborative network.

IX. Evidence Appendix

No evidence is being submitted herewith.

X. Related Proceedings Appendix

No copies of decisions rendered by a court or the Board are being submitted herewith.



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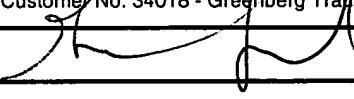
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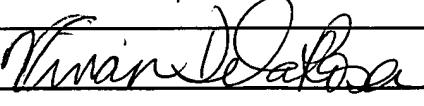
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Firm Name	Customer No. 34018 - Greenberg Traurig, LLP		
Signature			
Printed name	Gary R. Jarosik		
Date	December 5, 2005	Reg. No.	35,906

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Date	December 5, 2005

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